

MAY 8 - 2015
Night Drop
AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY _____ DEPUTYIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLANDTaisha Parrott)
4100 Bedford Place, Suitland, MD 20746)

Plaintiff)

v.)

Branch Banking and Trust Company)
200 W 2nd St, Winston Salem, NC 27101)Defendant)
_____)

Civil Action No.:

TDC 15 CV 1333

COMPLAINT

INTRODUCTION

1. This is an action alleging Defendant, upon information and belief, is not a creditor pursuant to Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. 1692 a(6) and Maryland Consumer Protection Act ("MCPA"), Md. Code Ann., Com. Law § 14-201(b) and who in their collection pursuit of a debt engaged in possible violations of debt collection, unfair and deceptive trade practices under and unjust enrichment FDCPA 15 U.S.C. 1692 et al., MCPA § 13-301 et al., and Maryland Debt Collection Act § 14-201 et al. ("MDCA").

2. CERTAIN ACTS ARE BROADLY PROHIBITED.

The FDCPA broadly prohibits unfair or unconscionable collection methods, conduct which harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements, in connection with the collection of a debt. The MDCA prohibits debt collectors from utilizing threatening or underhanded methods in collecting or attempting to collect a delinquent debt. MCPA prohibits "unfair or deceptive trade

practices,” Md. Code Ann., Com. Law § 13-301, and expressly designates as “unfair or deceptive trade practices” those that constitute any violation of the MDCA § 13-301(14)(iii).

3. THE FDCPA IMPOSES A STRICT LIABILITY STANDARD.

“Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages.” *Russell v. Equifax A.R.S.*, 74 F.3d 30 (2d Cir. 1996)

4. THE FDCPA MUST BE LIBERALLY CONSTRUED IN FAVOR OF CONSUMER-DEBTORS.

The FDCPA is a remedial statute, and must be construed liberally in favor of the debtor. *Sprinkle v. SB&C Ltd.*, 472 F. Supp.2d 1235 (W.D. Wash. 2006).

5. THE FDCPA IS TO BE INTERPRETED IN ACCORDANCE WITH THE “LEAST

SOPHISTICATED” CONSUMER STANDARD. See *Jeter v. Credit Bureau, Inc.*, 760 F.2d 1168 (11th Cir. 1985) (adopting the “least sophisticated” consumer standard) The least sophisticated consumer standard ensures protection of all consumers, even those who are naive and trusting, against deceptive debt collection practices.

6. Discovery and trial is needed for declaratory relief and money damages.

PARTIES TO THIS ACTION

7. Plaintiff, Taisha Parrott, is a consumer as defined by the FDCPA 15 U.S.C. 1692a(3) and MCPA, Md. Code Ann., Com. Law § 13-101 c(1), and at all times relevant to this action resided at 4100 Bedford Place, Suitland, Maryland 20746 (herein after “Subject Property”) in Prince Georges’ County for which was used for personal, family, and household purposes.

60 8. Defendant, BB&T, whose principle place of business is located at 200 W 2nd St, Winston
61 Salem, NC 27101, conducts business in the State of Maryland and regularly uses
62 instrumentalities of interstate commerce or the mails (i.e. the United States Postal
63 Service) for the principal purpose of collection of debts. At all relevant times Defendant
64 is a "person" and acted as a "collector" as those terms are defined by Md. Code Ann.,
65 Com. Law, § 14-201(b).

66
67 **JURISDICTION AND VENUE**
68

69 9. This Honorable Court has subject matter jurisdiction over this matter pursuant to
70 28U.S.C.A. § 1331. As demonstrated herein, this case involves a federal question.

71
72 10. Venue is proper in this Court because the acts and transactions occurred within this
73 state and the Defendant transacts business within this state.

74
75 **EXHIBITS TO COMPLAINT**
76

77 11. There is filed in this matter a separate documents entitled "Exhibits to Complaint". The
78 exhibits therein are incorporated and made a part hereof by way of reference as
79 "(Exhibit _)".

80
81 **FACTS RELEVANT TO ALL CLAIMS FOR RELIEF**
82

83 12. The Defendant pursued a "debt" (herein after "subject debt"), as that term is defined by
84 FDCPA 15 U.S.C. § 1692a(5), allegedly arising out of a "consumer transaction" to
85 receive real property as defined by Md. Code Ann., Com. Law, § 14-201 (c) of the
86 MCDCA that was to be used primarily for personal, family, or household purposes.

87
88 13. The basis of Defendant's collection efforts are documents styled as a promissory note

- 89 (“Note”) that names US Mortgage Finance Corp. as the lender/creditor, a Deed of Trust
90 to benefit US Mortgage Finance Corp. , and an assignment of the Deed of Trust.
91
- 92 14. A creditor pursuant to the FDCPA 15 U.S.C. § 1692a(4) includes ” ... any person who
93 offers or extends credit creating a debt or to whom a debt is owed,...”
94
- 95 15. The Plaintiff has not engaged in any transaction to receive an offer or extension of
96 credit to indebt Plaintiff to Defendant per the FDCPA nor receive “consumer credit” or
97 “debts” as Md. Code Ann., Com. Law § 13-101 (d) defines.
98
- 99 16. The Defendant was initially presented to Plaintiff as a servicer only collecting on behalf
100 of US Mortgage Finance Corp., the named creditor of the subject debt. After the subject
101 debt was declared in default did Defendant aggressively escalated their collection
102 efforts to a complaint against the Plaintiff and position themselves as a creditor and
103 owner of subject debt.
104
- 105 17. A person is not deemed a creditor if they receive an assignment or transfer of debt after
106 default per the FDCPA.
107
- 108 18. Plaintiff has sent Defendant multiple requests to validate and clarify for Plaintiff a) the
109 existence of debt, b) the identity of the true owner/creditor, and c) Defendant’s
110 authority and capacity to collect on behalf of the alleged owner/creditor. Defendant’s
111 responses to Plaintiff requests, and other communication Defendant has sent and
112 caused to be sent to Plaintiff, were contradictory for Defendant establishes themselves
113 as a debt collector on one hand and positions themselves as a creditor on the other.
114
- 115 19. Communications sent by Defendant or Defendant caused to be sent to Plaintiff includes:

- 116 A various dunning notices on some which display a “mini-Miranda”¹ warning;
117 leading Plaintiff to conclude that Defendant is a debt collector;
- 118 B a Notice of Intent to Foreclose (“NOI”) (Exhibit 1) states Government National
119 Mortgage Association² (“Ginnie Mae”) is the “secured party” or owner of the
120 debt; MD Comm Law § 9-102(D) defines “Secured party” as, in part, “A person to
121 which ... promissory notes have been sold”; leading Plaintiff to conclude that
122 Defendant is a debt collector;
- 123 C the NOI also makes the distinction that the Defendant is not the secured party of
124 subject debt by stating: “Name of Loan Servicer (**if different from Secured**
125 **Party**): Branch Banking and Trust Company” [emphasis added]; leading Plaintiff
126 to conclude that Defendant is a debt collector;
- 127 D a Combined Affidavit by affiant Dan Cadoff, Vice President of BB&T (Exhibit 2)
128 that asserts the “ownership of and accuracy of copy of debt instrument” and
129 states Ginnie Mae is the owner of the debt; leading Plaintiff to conclude that
130 Defendant is a debt collector;
- 131 E Defendant’s response (Exhibit 3) to Plaintiff’s validation of debt letter never
132 addressed the supposed ownership of the subject debt by Ginnie Mae but
133 professes they are the creditor; leading Plaintiff to conclude that Defendant is a
134 creditor;
- 135 F Plaintiff has also received a response from debt collector The Fisher Law Group,
136 PLLC, an agent of Defendant, concerning the validation of debt request, stating
137 that Defendant is the owner of the subject debt not Ginnie Mae. Debt collector
138 The Fisher Law Group, PLLC has also verbalized to Plaintiff that Ginnie Mae is
139 only a guarantor of the subject debt not an owner; leading Plaintiff to conclude
140 that Defendant is a creditor.

¹The Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(11), requires debt collectors when sending dunning notices to state “...that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose,...” This notice is typically referred to as a mini Miranda.

141

142 20. Ginnie Mae is a wholly owned government corporation within the Department of
143 Housing and Urban Development (HUD). Ginnie Mae states on their website that it "...
144 **does not purchase loans from mortgage lenders, make loans to borrowers,**"
145 [emphasis added]. Thus, leading Plaintiff to believe Ginnie Mae does not assume the
146 role of a creditor and thereby further confusing Plaintiff as to who the Defendant is,
147 debt collector or creditor.

148

149 21. Plaintiff is unable to determine the validity and authenticity of Defendant's
150 documents/instruments as verification for any alleged amount due and owing to the
151 Defendant for the following reasons:

152

- 153 A Plaintiff could not confirm with the named original creditor on the note, US
154 Mortgage Finance Corp., that US Mortgage Finance Corp. authorized the
155 attorney-in-fact named on the note, Southwest Security FSB, to execute a
156 transfer of the Note to Defendant nor could Plaintiff find any a power of attorney
157 granted by US Mortgage Finance Corp. Defendant has not supplied any proof of a
158 signature by the alleged original creditor indicating they authorized the
159 execution of the assignment or transfer of the note.
- 160 B US Mortgage Finance Corp. is a defunct² corporation without any legal or
161 business standing in the state of Maryland any contracts formed or in existence
162 during its period of forfeiture is invalid, inoperative, null and void, which
163 includes any agency relationships, as a matter of law;
- 164 C The Defendant had recorded in Maryland land records an Assignment of Deed of
165 Trust in Liber 35032 at Folio 469 on which it obscurely states that Defendant
166 solely acquired "... *actual rights of ownership...*" of the subject debt "... *effective*

² The Maryland Department of Assessments and Taxation Business Services comptroller made US Mortgage forfeit on 10/03/2011. A forfeited business means the "legal existence" of the entity has been relinquished. US Mortgage forfeit status is still in effect as of the date of this compliant filing.

167 *prior to May 29, 2013...*" The Defendants has stated with specificity and certainty
168 a date of default but cannot state the exact date they acquired ownership of the
169 subject debt. This recording is in stark contrast to the Combined Affidavit and
170 the NOI that states the owner is not the Defendant and possibly other
171 communication Plaintiff has received from Defendant;

172 D Recorded documents in Maryland land records does not reflect what is stated in
173 Defendants' communications and thus it appears that a proper chain of
174 assignments did not take place and that the lien positions were not properly
175 perfected;

176 E The Assignment, in part alleges "valuable consideration" was given to Mortgage
177 Electronic Registrations Systems, Inc. ("MERS") on behalf of the alleged creditor
178 US Mortgage Finance Corp., and that both the alleged Note and Deed of Trust was
179 transferred and negotiated to the Defendant;

180 F Plaintiff is not familiar and or otherwise is not provided with the definition of the
181 term "valuable consideration" which, is to the Plaintiff's understanding, can be
182 non-monetary in nature;

183 G MERS is named on the deed of trust only. MERS does not have beneficial interest
184 in the note and never has possession of any alleged Notes. Promissory notes are
185 not taken by assignment; they are taken by negotiation pursuant to the Uniform
186 Commercial Code. Therefore MERS could not have transferred, nor received any
187 consideration and or valuable consideration as alleged in the assignment.

188

189 22. Consequently, Defendant's collection efforts placed a cloud on the title of the subject
190 property, caused dispossession or disablement of Plaintiff's home, and caused Plaintiff
191 loss of equity in the subject property. Additionally, Plaintiff has suffered mental and
192 emotional distress, embarrassment, humiliation and financial hardship. No doubt the
193 irretrievable and damaging public information about Plaintiff will adversely affect her
194 creditworthiness for years to come since this information is now available to
195 prospective and existing employers, mortgage companies, real estate agents, finance

196 companies, credit card companies, title companies and others.

197

198

199

COUNT I

200

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

201

202 23. Paragraphs 1 through 22 are realleged as though fully set forth herein.

203

204 24. § 1692 (e) false, deceptive, or misleading representation or means in connection with
205 the debt collection.

206

207 25. § 1692 e(6) Sale or transfer of any interest in the debt will cause the consumer to lose
208 any claim or defense to payment of the debt.

209

210 26. § 1692 e(8) Threatens or communicates false credit information, including the failure
211 to communicate that a debt is disputed.

212

213 27. § 1692 e(11) Defendant communicated with Plaintiff numerous times but failed to
214 provide the required notice to Plaintiff every time.

215

216 28. § 1692 f(1) Attempt to collect any amount not authorized by the agreement creating
217 the debt or permitted by law.

218

219 29. § 1692 g(a) Failure to send Plaintiff notice that debtor has the right to to dispute the
220 subject debt.

221

222 30. Plaintiff is entitled to actual and statutory damages under 15. U.S.C. 1692k.

223

224

COUNT II

**VIOLATION OF MARYLAND CONSUMER PROTECTION
AND CONSUMER DEBT COLLECTION ACTS**

31. Paragraphs 1 through 30 are realleged as though fully set forth herein.

32. § 14-202. Prohibited Acts

(8) Claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; or

(9) Use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not.

33. § 14-203. Damages

A collector who violates any provision of this subtitle is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury.

DECLARATORY RELIEF

34. An actual controversy has arisen and now exists between the Plaintiff and Defendant concerning the public recorded documents, Assignment of Deed of Trust and their respective rights and duties in that Defendant alleged the Assignment of Deed of Trust gave them an interest in the alleged debt and Plaintiff's subject property.

35. Plaintiff seeks a judicial determination as to whether the recorded Assignment of Deed of Trust and the alleged Note executed by MERS conferred any rights, title and interest in the Plaintiff's subject property. Additionally, Plaintiff requests the court declare

whether “valuable consideration” as stated in the assignment is actually monetary or non-monetary in nature. Specifically, Plaintiff prays the judge define the meaning of “consideration” and or “valuable consideration”.

36. Plaintiff is also entitled to trial and discovery, to afford Defendant the opportunity to prove that MERS is named on the Note, take payments on the alleged debt in any manner, whether MERS ever had possession of any alleged Note, and proof Defendant paid MERS any monetary value for such alleged debt.

37. Lastly, Plaintiff requests a determination of the court to determine if Defendant in fact is a “debt collector” and or “creditor” as defined in Defendant’s communications, or the act itself.

IN CLOSING

35. Accepting the allegations in Plaintiff’s Complaint as true, and drawing all reasonable factual inferences from those facts in Plaintiff’s favor, clearly Plaintiff has provided necessary facts and evidence in support of her claim which would entitle her to discovery and trial and ultimately relief sought in her complaint.

PRAYER FOR RELIEF

36. WHEREFORE, Plaintiff’s requests the following relief to be awarded for each Cause of Action:

37. That this Court declare (declaratory relief) that Defendant did not acquire any interest in the alleged debt and or real property as demonstrated in the recorded Assignment of Deed of Trust by their reliance of a MERS transfer of the alleged Note and Mortgage;

283

284 38. For Declaratory Relief, including the following Decrees of this Court that:

285 A The Assignment of Mortgage is void and of no probative value;

286 B That Defendant is prohibited from sending any additional notices making
287 demands of Plaintiff regarding such alleged debt;

288 C Actual, and statutory damages in an amount determined at trial, and within the
289 jurisdictional amount of this court;

290 D Awarding Plaintiff any pre-judgment and post-judgment interest as may be
291 allowed under the law;

292 E And any other such damages deemed appropriate by the court.

293

294

295

296 Date: May 7, 2015

297

298

299

300 Taisha Parrott
Taisha Parrott, Plaintiff

301 4100 Bedford Place, Suitland, MD 20746

302 202-487-7403